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FEDERAL COMMUNICATIONS COMMISSION  
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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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In the Matter of

Implementation of Sections 12 and 19  
of the Cable Television Consumer  
Protection and Competition Act of 1992

Development of Competition and  
Diversity in Video Programming  
Distribution and Carriage

DOCKET FILE COPY ORIGINAL

MM Docket No. 92-266

TO THE COMMISSION:

THE ELECTRIC PLANT BOARD OF THE  
CITY OF GLASGOW, KENTUCKY'S COMMENTS  
IN SUPPORT OF  
UNIFORM RATES FOR CABLE SYSTEMS THROUGHOUT  
BROAD GEOGRAPHIC AREAS

Pursuant to Sections 1.414 and 1.419 of the Commission's  
Rules and the Commission's Notice of Proposed Rule Making  
("NPRM"), 58 Fed. Reg. 48 (January 4, 1993), the Electric Plant  
Board of the City of Glasgow, Kentucky, ("EPB") respectfully  
submits these comments to urge the Commission to adopt rules on a  
geographically uniform rate structure that will foster  
competition in furtherance of the objectives of the Cable  
Television Consumer Protection and Competition Act of 1992 (the  
"Act" or "1992 Cable Act").

I. NATURE OF THE EPB'S INTEREST IN THIS MATTER

A. General Description of the EPB

EPB is a municipal corporation organized to distribute

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electric power and other technology required by the citizens of the City of Glasgow, Kentucky. Glasgow is similar to approximately 2,000 other such municipal corporations across the United States. Many of these public power systems are interested in answering the desire of their citizen-owners for competition in the cable television marketplace by constructing a municipally-owned system similar to that which has been constructed in Glasgow, Kentucky.

In 1989 the EPB constructed a community-wide coaxial based communications network capable of serving many needs of the community in the coming information age. Initially, the network was used to begin automating the electric distribution system and make the system more efficient while encouraging energy conservation through real-time communication with each electric consumer. Shortly thereafter, a competitive cable television service was added to the new communications network to provide competition to an existing private cable system. The private cable operator attempted to thwart the competition by employing several anti-competitive techniques which are all addressed by the 1992 Cable Act. Since our system has been in operation, over 250 cities have sent representatives to Glasgow to study the system which we have constructed. Many of these cities would construct a similar system and offer competition to their respective private cable operators if the cable operators are forced to "play fair" by offering geographically uniform rates, universal access to programming, and other issues that the FCC

should address through its rule makings required by the 1992 Cable Act.

**II. GLASGOW'S HISTORY SHOWS HOW CABLE TELEVISION OPERATORS HAVE USED NON-UNIFORM RATE STRUCTURES TO IMPAIR THE ABILITY OF MUNICIPALITIES TO COMPETE EFFECTIVELY IN THE CABLE TELEVISION MARKETPLACE**

When the EPB first began to offer a competitive cable television service in Glasgow, Kentucky, TeleScripps Cable Company employed a non-uniform rate structure to effectively thwart competition.

When the EPB system was first completed in a small (approximately 500 homes) area of the community, TeleScripps announced a rate decrease from \$14.25 for basic to \$5.95 for those residences in the 500 home area with access to EPB cable television. As the system grew, their \$5.95 basic rate grew identically. When the EPB's system neared completion, TeleScripps resorted to lowering prices to the whole area where EPB cable was available to \$8.95 per month for basic. Meanwhile, just outside the city limits (and thus outside EPB's service area) rates were only lowered to \$12.95 per month.

For over three years, these rates remained unchanged while rates for a similar basic service in most other cities served by TeleScripps Cable Company increased to over \$20.00 per month. This rate structure severely impacted the number of subscribers that decided to change from TeleScripps to the municipally-owned EPB system. While marketing surveys before the construction of the EPB system predicted that 45 - 50% of cable

customers would purchase their cable service from the municipally-owned competitor, this rate structure along with other anti-competitive activities such as denying access to desirable programming, resulted in penetration closer to 25% of the available market.

### **III. EPB'S COMMENTS**

The EPB is surprised to see the issue of geographically uniform rate structure addressed in the NPRM. It is the EPB's interpretation of the 1992 Cable Act that cable operators must employ geographically uniform rate structures and that no rule making is required in order to enforce this provision.

The EPB thus assumes that the real thrust of discussing this issue in the NPRM was to help define "geographic area". The EPB strongly urges the FCC to adopt a definition of geographic area that would encompass all cable systems operated by a MSO in, at the very least, a statewide area. The NPRM requests comments on whether Congress intended to require or permit cross-subsidization to maintain uniform rates within the cable system. In EPB's opinion and experience, Congress intended to promote competition in the cable television marketplace and remove barriers such as the rampant cross-subsidization that was employed against the EPB by TeleScripps Cable Company.

There can be no question that 45 channel basic service sold for \$5.95 per month or \$8.95 per month is not profitable for the cable operator. The only way for a profit driven company

such as TeleScripps Cable Company (or any other MSO for that matter) can offer rates such as these is by raising rates in other communities and using those profits to subsidize lower rates in communities where they face competition. This is the very definition of cross-subsidization such as that which is outlawed by the Robinson-Patman Act. The FCC must adopt a definition of geographic area then that is larger than a single community or a single franchise area. Such a definition would foster competition since MSO's will be unlikely to lower their rates to \$5.95 or \$8.95 throughout a state in order to thwart competition in one community.

The NPRM mistakenly assumes that there can be wide variances in cost to cable operators for serving differing franchise areas due to the density of homes passed, the age of the facilities, or other factors. In fact, the difference in cost for operating cable systems from community to community is so small as to be microscopic. Nearly all communities impose a franchise fee from 3 - 5%, with 3% being the most common. Cable operators have long paid much more for cable systems in individual communities than the actual book value of the plant. In fact, most cable systems that have sold within the last ten years have fetched prices 300 - 500% greater than the actual cost of constructing the cable plant in those communities. Therefore, the overwhelming majority of the costs of operating individual cable plants are found in the expense of amortizing the debt involved with the purchase of the system and are not related to

the age or condition of the actual plant. This is further evidenced by the fact that most MSO's systemically offer geographically uniform rates in all areas, except those in which they have competition. This is further evidence that cable operators' costs do not vary from community to community, or they would already charge different rates from community to community. The truth is, the costs do not vary appreciably and therefore MSOs do not vary their rates appreciably.

#### **IV. EPB REPRESENTATIVES**

All communications and correspondence regarding this matter should be directed to the following representatives of EPB:

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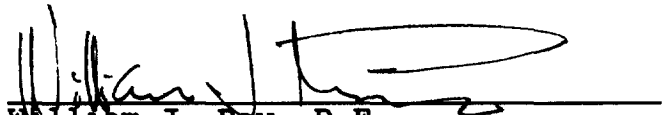
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#### **V. CONCLUSION**

Geographically uniform rate structures must be an element of a comprehensive plan as envisioned by the 1992 Cable Act to encourage competition in the cable television marketplace. As evidenced by the EPB's experience in Glasgow, Kentucky, "geographic area" must be interpreted as a broad area at least

the size of a state. Any definition of an area smaller than that will produce exactly the same results as the EPB continues to experience in Glasgow. Huge corporations such as the E. W. Scripps Company are willing to cross-subsidize their anti-competitive activities by raising the rates in some communities in order to finance predatory rates in communities that dare to offer them competition. The 1992 Cable Act is an example of democracy at its finest. Monopolies have always been offensive to the American public, and this Act is aimed at removing the tools that the cable operators have used to construct the most onerous monopoly of modern time. The EPB urges you in the strongest terms to define "geographic area" as used in the 1992 Cable Act to mean all cable systems owned and operated by any MSO throughout an area at least as large as a state.

Respectfully submitted this 26th day of January, 1993.



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